

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNIVERSITY OF PITTSBURGH OF)
THE COMMONWEALTH SYSTEM OF) Civil Action No.: 2:08-cv-01307
HIGHER EDUCATION d/b/a)
UNIVERSITY OF PITTSBURGH) Judge Arthur J. Schwab
)
Plaintiff,)
)
v.)
)
) **FILED ELECTRONICALLY**
VARIAN MEDICAL SYSTEMS, INC.)
)
Defendant.)

ORDER OF COURT RE: PARTIES' OBJECTIONS TO EXHIBITS
FOR DAMAGES PORTION OF TRIAL

Presently before this Court are the Parties' Exhibit Charts which include their objections to exhibits' authenticity and/or admissibility. Doc. Nos. 604, 612. After careful review of the exhibits and objections thereto, the Court rules as follows:

AND NOW, on this 14th day of February 2012, IT IS HEREBY ORDERED THAT:

1. Defendant's objections to the following Plaintiff's exhibits are **OVERRULED**:

- P-176;
- PP-13;
- PP-14;
- PP-15;
- PP-16;
- PP-17;
- PP-18;
- PP-19;
- PP-20;
- PP-22;
- PP-23;
- PP-24;
- PP-25;
- PP-26;

- PP-27;
- PP-28;
- PP-29;
- PP-30;
- PP-31;
- PP-32;
- PP-33;
- PP-35;
- PP-36;
- PP-37;
- PP-39;
- PP-40;
- PP-41;
- PP-42;
- PP-57;
- PP-60;
- PP-62;
- PP-64;
- PP-75; and
- PP-76.

2. Defendant's objection to Plaintiff's exhibit PP-73 is **SUSTAINED** as to the 2nd and 3rd paragraphs, and **OVERRULED** as to the 1st paragraph.

3. Plaintiff's objections to the following Defendant's exhibits are **SUSTAINED**:

- D-009;
- D-013;
- D-020;
- D-022;
- D-023;
- D-029;
- D-030;
- D-033;
- D-034;
- D-106;
- D-107;
- D-108;
- D-110;
- D-111;
- D-112;
- D-129;
- D-133;
- D-135;

- D-136;
- D-138;
- D-140;
- D-141;
- D-142;
- D-148;
- D-149;
- D-164;
- D-165;
- D-166;
- D-171;
- D-187;
- D-190;
- D-213;
- DD-073;
- DD-119;
- DD-130;
- DD-161;
- DD-164;
- DD-168;
- DD-187;
- DD-191;
- DD-192;
- DD-282;
- DD-548;
- DD-643;
- DD-646;
- DD-658;
- DD-659;
- DD-664;
- DD-665;
- DD-672;
- DD-673;
- DD-695;
- DD-73;
- DD-752;
- DD-753;
- DD-754;
- DD-826;
- DD-834
- DD-844; and
- JT 27.

4. Plaintiff's objections to the following Defendant's exhibits are **OVERRULED as it relates to '554 and SUSTAINED as to any other matter:**

- D-056;
- D-061; and
- D-158.

5. Plaintiff's objections to the following Defendant's exhibits are **SUSTAINED IN PART/OVERRULED IN PART** as set forth below:

- D-191 is overruled with respect to interrogatory 19 and otherwise sustained (consistent with the parties' stipulation);
- DD-043 is overruled with respect to interrogatory 16 only and otherwise sustained;
- DD-212, DD-213, DD-819, and DD-820 are sustained with respect to the actual expert reports and overruled with respect to the exhibits to the expert reports; however, the exhibits to the expert report must conform to previous Court Orders (see doc. nos. 594 and 600) regarding foreign sales, non-treatment RPMs, and the redesign of the RPM system;
- DD-379 is sustained except as to the '554 negotiation portion of the exhibit;
- DD-629, DD-630, and DD-818 are overruled, except that Varian may not use this evidence to support any argument that foreign sales should be excluded from the royalty base (consistent prior Court Orders at doc. nos. 594 and 600);
- DD-840 is overruled with respect to requests for admission 14 and 15 and otherwise sustained (consistent with the parties' stipulation).

6. Plaintiff's objections to the following Defendant's exhibits are **OVERRULED** as long as the exhibit can be authenticated:

- DD-562-B; and
- DD-562-F.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties